



# City of Santa Barbara

## Planning Division

### STAFF HEARING OFFICER MINUTES

SEPTEMBER 9, 2009

#### CALL TO ORDER:

Susan Reardon, Senior Planner, called the meeting to order at 9:01 a.m.

#### STAFF PRESENT:

Susan Reardon, Senior Planner

Danny Kato, Senior Planner

Roxanne Milazzo, Associate Planner

Gloria Shafer, Staff Hearing Officer Secretary

#### I. PRELIMINARY MATTERS:

- A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

Ms. Reardon announced that the application for Item A has been withdrawn.

- B. Announcements and appeals.

Ms. Reardon announced that the Planning Commission will hear an appeal of the Staff Hearing Officer decision for 631 Olive Street on Thursday, September 10, 2009.

Ms. Reardon announced that the Planning Commission will hear an appeal of the Staff Hearing Officer decision for 617 Bradbury Avenue on Thursday, September 17, 2009.

- C. Comments from members of the public pertaining to items not on this agenda.

None.

#### II. PROJECTS:

- A. APPLICATION OF BRIAN BERGAKKER, PROPERTY OWNER, 1532 EUCALYPTUS HILL ROAD, APN 015-232-005. E-1 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: 12 UNITS PER ACRE (MST2009-00351)

The 6,547 square foot project site is currently developed with a single family residence and detached two-car garage. The proposed project involves demolition of a failing retaining wall, and the construction of new retaining walls and entry stairs to the residence. The discretionary application required for this project is a Modification to permit walls to exceed 3 ½' in height when located within ten feet of either side of a driveway for a distance of twenty feet back from the front lot line (SBMC §28.87.170).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 & 15305.

**This item was withdrawn.**

**ACTUAL TIME: 9:02 A.M.**

**B. APPLICATION OF TONY XIQUES, AGENT FOR VALDOTAS AND JUDITH MILTNER VAITYS, 2201 STANWOOD DRIVE, APN 019-034-003, A-1 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: 1 UNIT PER ACRE (MST2008-00413)**

The 51,836 square foot project site has frontage on both Stanwood Drive and Orizaba Lane. Current development on site consists of a single family residence and detached accessory building. The proposed project involves a 238 square foot "as-built" porch enclosure to the residence and conversion of the 455 square foot "as-built" accessory building into a garage and workshop. The structure will be expanded by 39 square feet to meet the minimum required dimensions for a two-car garage. The discretionary application required for this project is a Modification to permit new floor area within the required 35' front setback off of Orizaba Lane (SBMC §28.15.060).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301 & 15305.

Present: Tony Xiques, Agent/Designer.

Roxanne Milazzo, Associate Planner, gave the Staff presentation and recommendation.

The Public Hearing was opened at 9:11 a.m.

As no one wished to speak, the Public Hearing was closed.

Ms. Reardon announced that she read the Staff Report and visited the site and surrounding neighborhood.

**ACTION:**

**Assigned Resolution No. 074-09**

Approved the subject application making the following findings and determinations:

The Modification is consistent with the purpose and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The Modification to permit new floor area within the required front setback allows for minor expansion of the original floor plan which is not visible from the road and is located in the secondary front setback of a constrained lot, legalization of existing zoning and building violations on site, and allows for minor expansion to provide conforming parking for the property.

Said approval is subject to the condition that 1) A Zoning Compliance Declaration be recorded against the property's title. 2) A building permit be obtained for the abatement of all outstanding violations within 30 days of this approval. 3) Vegetation along Orizaba Lane street frontage to be reduced to conform with SMBC §28.87.170 due to visibility and safety concerns existing at the driveway.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

**ACTUAL TIME: 9:15 A.M.**

**C. APPLICATION OF ROY HARTHORN, AGENT FOR MICHAEL AND ELIZABETH WITHERELL, 914 CALIFORNIA STREET, APN 029-051-001, E-1 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: 12 UNITS PER ACRE (MST2009-00341)**

The 6,284 square foot project site is located on the corner of California Street and Oramas Road. Current development on site consists of a single family residence and detached two-car carport. The proposed project involves demolition of the carport and the construction of a two-car garage. The discretionary applications required for this project are Modifications to permit the garage to be located within both thirty-foot front setbacks (SBMC §28.15.060).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 & 15305.

Present: Elizabeth Witherell, Owner.

Roxanne Milazzo, Associate Planner, gave the Staff presentation and recommendation.

The Public Hearing was opened at 9:18 a.m.

As no one wished to speak, the Public Hearing was closed.

Ms. Reardon announced that she read the Staff Report and visited the site and surrounding neighborhood.

Ms. Reardon stated that a garage larger than minimum required size within the front setback is non consistent with the purpose and intent of the Zoning Ordinance. Storage is not an appropriate use of a front setback area

**ACTION:**

**Assigned Resolution No. 075-09**

Approved the subject application making the following findings and determinations:

The Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The Modification for front setback encroachment will allow the carport to be replaced with a garage which maintains the existing parking area for the property with a secure,

weatherproof, and attractive improvement for the site, and with no impacts or safety issues for the neighborhood.

Said approval is subject to the condition that all vegetation near the street corner would be reduced/removed to improve sight lines as required by SBMC §28.87.170.C; and that the interior dimensions of the proposed garage shall not exceed 20 feet by 20 feet.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

**ACTUAL TIME: 9:26 A.M.**

**D. APPLICATION OF FRANCISCA MELUSINA EDWARDS, APPLICANT FOR THE SANTA BARBARA GREENCARE COLLECTIVE, 2 WEST MISSION STREET, APN 025-311-013, C-2 ZONE, GENERAL PLAN DESIGNATION: GENERAL COMMERCE AND OFFICE (MST2009-00314)**

The project consists of the establishment of a medical cannabis dispensary in a 600 square foot commercial tenant space located at 2 West Mission Street.

The discretionary application required for this project is a Medical Cannabis Dispensary Permit (MCDP) (SBMC §28.80.030).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301 (Existing Facilities).

Present: Gil Garcia, Architect; Hans and Melusina Edwards, Applicants; John Stenmo, Security.

Danny Kato, Senior Planner, gave the Staff presentation and recommendation. Mr. Edwards also provide a project presentation.

The Public Hearing was opened at 9:41 a.m.

- \* Royal Agnoli, opposed to a cannabis dispensary in a residential area.
- \* Chris Weber, in support: in favor, applicants will provide quality alternative medical care in a professional manner.
- \* Chris Agnoli, opposed: concerned about the possible loss of family neighborhood character; prefers that cannabis be sold in a drug store, the need for excessive security is not appropriate for Santa Barbara (submitted written comments).
- \* Marti Correa: in support: applicants have complied with the Zoning Ordinance and there is neighborhood support.
- \* Gil Mintz, M.D.: in support: the project will conform with all local and state requirements; the alternative medicine has becoming more accepted by physicians. The facility will provide adequate security and be an asset to the community.

- \* Four letters received in opposition to the project were acknowledged.
- \* Fifty-three letters received in support of the project were acknowledged.
- \* Two petitions containing a total of 649 signatures were acknowledged.

The Public Hearing was closed at 9:51 a.m.

Ms. Reardon announced that she read the Staff Report and visited the site and surrounding neighborhood.

Ms. Reardon requested clarification of the proposed parking, the client identification card, and explanation as to why the dispensary is not located in a medical facility. Ms. Reardon stated that some Operational Plan exhibits were not received in the packet and security plan exhibits do not match the plans regarding security camera installation. Ms. Reardon stated that revisions will be necessary to the Operation Plan to coordinate with the changed exhibits. Ms. Reardon also questioned whether herbal supplements would be sold on the premises.

Mr. Edwards responded that assigned parking is available at the rear of the building and 15 minute street parking is available on State Street. Mr. Garcia clarified that city records indicate parking spaces at the rear of the building are public spaces, however the building owner might have assigned spaces. Mr. Garcia indicated that only Medical Cannabis would be sold in the dispensary, not herbal supplements or products.

Ms. Reardon requested clarification of the proposed recessed front entry door.

Mr. Kato responded that Captain Armando Martel of the Police Department stated that a flushed entry door is preferred for security purposes. Mr. Kato stated that there are several alternatives that will allow a flushed entry. Mr. Garcia responded that although a flushed door was preferred, Captain Martel also stated that a recessed door with exterior lighting is possible with ABR review and approval. Mr. Garcia agreed that efforts will be pursued to minimize the recess to alleviate concerns.

Mr. Stenmo explained changes to the proposed security and covert camera locations, he stated that if the recessed door is permitted lighting and a camera are proposed to be installed in the recess. If the recessed door is not permitted an alternative location will be selected.

Mr. Kato explained that the ordinance allows dispensaries in C-2 and C-M Commercial Zones; the proposed site is a commercial zone.

Ms. Reardon requested clarification of the client identification card and stated that a State issued identification is for the purpose of identifying an individual as a resident of California.

Mr. Kato clarified that the County of Santa Barbara issues referral cards for dispensary access. Access to the dispensary is allowed with either the referral card or a referral from a physician.

Public comment reopened at 10:08:

Gil Mince, MD: clarified that a MMP Cannabis ID Card is issued by either the state or county and is voluntary, however proper identification is also required.

Public comment closed.

Following discussion, Ms. Reardon requested the following revisions to the Medical Cannabis Dispensary Permit Application section of the Operational Plan:

Coordinate and correctly label all the Exhibits to the Operational Plan

Page 3, C.3: Replace reference to the Santa Monica Police Department with reference to the Santa Barbara Police Department.

Page 3, C.4: correct identification card terminology. The State Identification Card does not substitute for a recommendation from a licensed physician. Also clarify what a legitimate reason for entry is.

Page 4, C.6: same correction regarding identification card terminology.

Page 5, E.1: revise first sentence to read as follows "No manner of consumption by patients..."

GreenCare Rules and Regulations: same comment regarding correction of the identification card terminology.

**ACTION:**

**Assigned Resolution No. 076-09**

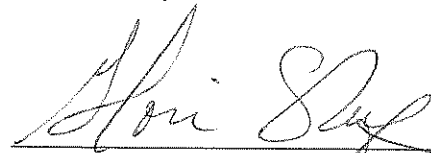
Approved the project making the findings contained in Section VII of the Staff Report dated September 2, 2009, with the changes to the Operational Plan as revised at the hearing, and subject to the Conditions of Approval contained in Exhibit A of the Staff Report as revised at the hearing and with the following additional conditions: 1) exterior lighting shall be reviewed and approved by the Architectural Board of Review; 2) the front entry door shall not be recessed; 3) the Operational Plan shall be revised as discussed at the hearing.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

**III. ADJOURNMENT**

Ms. Reardon adjourned the meeting at 10:28 a.m.

Submitted by,



Gloria Shafer, Staff Hearing Officer Secretary